

[REDACTED]

[REDACTED]

[REDACTED]

SEP 24 1937

CERTIFIED MAIL

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

The information submitted indicates you were formed [REDACTED].

Your stated purpose is to provide garden plots on [REDACTED] to members.

Members are those persons who have paid dues in exchange of being assigned a garden plot.

You issue permits, assess dues, maintain the common areas, comply with basic U.S. Park Service guidelines, promote improved, efficient organic home gardening techniques and maintain an information board for the posting of information related to garden techniques as well as administrative matters.

Income is derived from dues, interest, contributions and forfeiture of security deposits. Expenditures are for stamps and stationery, garden tools, wood chips, hose and hose fittings, lumber and working compost pile.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(1) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterments and social improvement.

Your primary purpose is to promote your members interest in gardening by encouraging members to share expertise in soil improvement, gardening techniques, vegetable cooking, preserving and freezing methods.

Consequently, we conclude that you are primarily organized and operated to provide services for the personal benefit of your members and not primarily for promoting in some way the common good and general welfare of the people of the community.

Therefore, you do not qualify for exemption from Federal income tax as an organization described in Section 501(c)(4) of the Code.

Section 501(c)(7) of the Internal Revenue Code exempts from Federal income tax, clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all the activities of which are for such purposes and no part of the net earnings of which inure to the benefit of any private shareholder.

Section 1.501(c)(7) -1 of the Income Tax Regulations provides as follows:

- (a) The exemption provided by Section 501(a) for organizations described in Section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenues from members through the use of club facilities or in connection with club activities.

- (b) A club which engaged in business, such as making its social and recreational facilities available to the general public --- is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under Section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes.

The Service has consistently held, and has been upheld by the courts in the position that "other non-profitable purposes" must be similar to pleasure and recreation. (Revenue Ruling 69-365, 1969-2 C.B. 126; Keystone Automobile Club v. Commissioner 181 F. 2d 402 (1950).

Revenue Ruling 58-589, 1958-2 C.B., p.256 sets forth the criteria for exemption under Section 501(c)(7) of the Code and provides that a club must have a membership of individuals, personal contacts, and fellowship. A commingling of members must play a material part in the activities of the organization. Commingling is evidenced by such things as regularly held social meetings, other social gatherings, and regular meeting facilities. A commingling of members does not play a material part in the activities of your organization.

Accordingly, we hold that you are not operated substantially for pleasure, recreation or other nonprofitable purposes and that you do not qualify for exemption from Federal Income Tax as an organization described in section 501(c)(7) of the Internal Revenue Code.

Based on the information submitted, exempt status will not be recognized under any related paragraph of the Internal Revenue Code Section 501(c).

You are not relieved of the requirements for filing Federal income tax returns.

[REDACTED]

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892